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COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 45th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 20 April 1999, at 3 p.m.

Chairperson: Ms. ANDERSON (Ireland)

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GE.99-12595 (E)

The meeting was called to order at 3 p.m.

PROMOTION AND PROTECTION OF HUMAN RIGHTS:

(a) STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS;

(b) HUMAN RIGHTS DEFENDERS;

(c) INFORMATION AND EDUCATION;

(d) SCIENCE AND ENVIRONMENT

(agenda item 17) (continued) (E/CN.4/1999/52 and Corr.1 and Add.1, 86-88, 89 and Add.1, 90-92, 116, 122, 138 and 139; E/CN.4/1999/NGO/9, 38, 63 and 78)

1. Ms. AQUILINA (Observer for Malta) said that the establishment of the International Criminal Court was a milestone in the effort to strengthen human rights worldwide. Peace and prosperity could not be enjoyed without full respect for human rights under a democratic system of government. In Malta, the Constitution and Constitutional Court ensured full protection of human rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms had been incorporated into domestic law.

2. Her delegation supported the position of the European Union on the abolition of the death penalty and believed that human rights education was one of the most important ways of strengthening global awareness of human rights. In that connection, she commended the High Commissioner's report on public information activities in the field of human rights (E/CN.4/1999/86). She expressed support for the efforts of the Secretary-General to integrate human rights activities at Headquarters and in the field and welcomed the participation of the High Commissioner in the work of the four main Executive Committees.

3. Ms. RAHAMIMOFF (Observer for Israel) said that, while technological and scientific progress had led to a greater understanding of the world, that knowledge must be applied responsibly. In 1998, her Government had enacted legislation to prevent the cloning of human beings and the genetic modification of reproductive cells. The law in question provided for a five-year moratorium on certain types of genetic intervention, during which time the moral, legal, social and scientific implementation of such activities were to be studied by an advisory committee.

4. In 1996, the Israeli Parliament had enacted a law on patient's rights which set out the right to receive medical treatment in accordance with national law and custom and prohibited the withholding of medical treatment and discrimination between patients; it also entitled patients to information about their condition, protected their privacy and required patient consent for medical procedures. Parliament was currently considering a bill on the confidentiality of genetic information.

5. Mr. DRAGANOV (Observer for Bulgaria) said that no executions had taken place in his country since 1989 and a moratorium had been imposed in 1990. Thus by the second half of 1999, Bulgaria would have moved from the group

of retentionist countries listed in the Secretary-General's report (E/CN.4/1999/52, para. 25) to the list of de facto abolitionist countries (idem). In fact, however, on 10 December 1998, Parliament had amended the country's penal code by abolishing the death sentence for all crimes, thus placing Bulgaria on the list of totally abolitionist States. The sentences of the nearly two dozen convicts who had been on death row since 1990 had been commuted to life imprisonment by a special presidential decree. Bulgaria had also signed the Second Optional Protocol to the International Covenant on Civil and Political Rights and Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, and was in the process of ratifying both instruments.

6. His delegation, which was a sponsor of the draft resolution on the death penalty, agreed with the conclusion in the Secretary-General's report that executions did not provide for less violent societies but tended further to brutalize and escalate social conflicts. It was alarming that the death penalty continued to be imposed in some countries in circumstances that violated the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. He urged all States parties to the Covenant to accede to its Second Optional Protocol and all countries that still maintained the death penalty to impose it only for the most serious crimes.

7. Mr. KHORRAM (Observer for the Islamic Republic of Iran), having noted that the Vienna Programme of Action requested the Secretary-General to open a dialogue with States that had not yet ratified core international human rights treaties, said that the relevant organs of the United Nations should establish mechanisms to facilitate discussion among the Member States, intergovernmental bodies and non-governmental organizations (NGOs) to identify obstacles to ratification and ways of overcoming them. To that end the organization, with United Nations assistance, of national, regional and subregional seminars and conferences would be useful.

8. In addition, there were a number of countries whose ratification of international instruments would, in their own view, be inconsistent with their national legislation and cultural values. The provision of a forum for an exchange of views and grass-roots dialogue that would make it possible to consider cultural particularities might greatly facilitate accession by such States.

9. Unfortunately, many States encountered difficulties in implementing human rights instruments, particularly the International Covenant on Economic, Social and Cultural Rights, because of unilateral coercive measures taken by certain States in violation of international law and the Charter of the United Nations. The relevant treaty bodies should address that issue and discourage States from pursuing such policies and practices.

10. Mr. BUSDACHIN (Transnational Radical Party) said that, at the forty-ninth session of the General Assembly, a draft resolution on abolition of the death penalty had been defeated by only seven votes. In the meantime, a number of parliaments around the world had revised their penal codes to

eliminate or suspend the death penalty, and the Statute of the International Tribunal for the Former Yugoslavia had forbidden the sentencing to death of war criminals.

11. The draft resolution on the death penalty on which the Commission was to decide had been sponsored not by individual States but by the European Union, a fact that enhanced the likelihood of its adoption. However, rather than specifying categories of persons to whom the death penalty should not apply, the draft resolution should call for its total abolition. It should also call upon the General Assembly to adopt a resolution imposing a worldwide moratorium on executions as a crucial step towards the abolition of capital punishment.

12. Ms. SMITH (World Alliance of Reformed Churches) said that capital punishment was imposed as part of an intellectually dishonest campaign that professed to be addressing crime without deliberating its causes or consequences. She was pleased to note that the Commission was once again to consider a draft resolution calling for a suspension of executions with a view to the complete abolition of the death penalty, and she urged all States to observe that moratorium, which would allow countries that still imposed the death penalty to consider its political, ethical and theological implications.

13. The death penalty was a human rights issue and the epitome of a hate crime; it reflected a throw-away society that deprived the poor of due process and equal protection. Rather than offering forgiveness and opportunities for reconciliation and redemption, societies that executed offenders merely perpetuated violence. Moreover, the healing of family members of murder victims was a process that was short-changed by such simple solutions as the death penalty. Executing murderers simply diminished the value of the victims.

14. Mr. LITTMAN (Christian Solidarity International) said that the problems of ratification of and compliance with the International Covenants on Human Rights arose also in the case of other international conventions. Some States signed and ratified those instruments without any intention of respecting their commitments under them. His organization would continue to speak out and draw the international community's attention to failures to implement binding instruments. He urged the Commission and the High Commissioner to do likewise, particularly through their public information activities.

15. Mr. RAJKUMAR (Pax Romana) said he was deeply concerned that 88 countries, continued to apply the death penalty. His organization would support the worldwide moratorium on the death penalty in the year 2000 and urged the Turkish authorities to observe the moratorium in respect of the Kurdish leader, Mr. Ocalan, as requested by the Council of Europe. He wished to point out that the Philippines should not have been listed as a de facto abolitionist country in the Secretary-General's report (E/CN.4/1999/52).

16. The protection of human rights defenders must be a fundamental part of the Commission's work. His organization was familiar with the harassment of human rights defenders, as it had suffered the loss of two of its eminent

members in Haiti and Guatemala. In connection with the latter case, it welcomed the invitation by the Government of Guatemala to the Special Rapporteur on the independence of judges and lawyers to visit that country.

17. Ms. BROWN (Human Rights Watch) welcomed the adoption by the General Assembly at its fifty-third session of the Declaration on Human Rights Defenders. Since then, events around the world had highlighted the importance of the Declaration: human rights lawyers and monitors had been killed, persecuted and punished in many countries, and there were countries in which work on human rights issues was considered illegal. She therefore urged the Commission to appoint a new special rapporteur to monitor the implementation of the Declaration.

18. Mr. MEJIA (World Organization against Torture), speaking also on behalf of the International Federation of Human Rights Leagues, called upon the Government of Pakistan to take steps to ensure the safety of the Special Rapporteur on extrajudicial, summary or arbitrary executions against whom threats had been made. Such threats exemplified the fact that, in total disregard of the obligations and commitments entered into by States, many countries, individuals, groups and private entities were waging war on human rights defenders and their organizations.

19. The work of the Observatory for the Protection of Human Rights Defenders, established in July 1997 by the two organizations he was representing, showed how grave and widespread was the violence against human rights defenders. The organization's written statement (E/CN.4/1999/NGO/215) referred to more than 200 cases in some 40 countries, including summary or extrajudicial executions, torture, illegal or arbitrary detention, judicial persecution and violation of the right to a fair trial. In the period between December 1998 and 15 April 1999, human rights defenders had been killed in Colombia, Ecuador, Guatemala, Haiti, the Islamic Republic of Iran and the United Kingdom. Several human rights defenders attending the Commission's current session would be in serious danger on their return to their countries.

20. Effective implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms would strengthen the rights and commitment of those working to ensure respect for human rights, but 26 States had entered reservations concerning the Declaration. The Commission, the United Nations and the international community in general should ensure the protection of human rights defenders and promote and monitor the implementation of the Declaration. To that end, the question of human rights defenders should be included in all United Nations proceedings relating to human rights; a special unit or focal point dealing with human rights defenders should be established in the Office of the High Commissioner for Human Rights (OHCHR); and a special rapporteur on human rights defenders should be appointed.

21. Ms. MARTIN (Amnesty International) said that the fact that the Convention on the Rights of the Child had been ratified by all countries except Somalia and the United States of America clearly demonstrated the international consensus against sentencing to death or executing anyone for crimes committed when under 18 years of age. Although the laws in a number of

countries still permitted it, only six countries had, since 1990, carried out executions of people who had been below 18 years of age at the time of the crime. Those countries were the Islamic Republic of Iran, Nigeria, Pakistan, Saudi Arabia, the United States of America and Yemen. Five of those countries had acted in clear violation of their obligations under the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, or both.

22. The country which had carried out by far the highest number of executions of persons under 18, and which continued to do so, was the United States of America. In order to continue imposing the death penalty on such persons, the United States of America had entered a reservation to article 6 of the International Covenant on Civil and Political Rights, despite the fact that no State was permitted a derogation from that article under any circumstances. In 1995, the Human Rights Committee had stated that the reservation was incompatible with the object and purpose of the Covenant. The United States of America had nevertheless turned a blind eye to the Committee's injunction to withdraw the reservation, and had since then executed four more juvenile offenders.

23. The resolution adopted by the Commission at its fifty-fourth session had also urged all States to observe the 1984 Economic and Social Council safeguards guaranteeing the protection of the rights of those facing the death penalty. Those safeguards prohibited the execution of persons who had become insane or who were suffering from mental retardation or extremely limited mental competence. The United States of America ignored that elementary principle and continued to execute such people. Its Supreme Court had even ruled that it was not unconstitutional to apply the death penalty to the mentally retarded.

24. Her organization called on the Commission to adopt a resolution urging all States to halt the practice of imposing death sentences on and carrying out executions of persons who had committed crimes when younger than 18 and of persons suffering from mental retardation or insanity.

25. Ms. BRAXON (International Educational Development, Inc.) described how her organization and its members and affiliates had suffered in the course of defending human rights and humanitarian law. She had herself been declared persona non grata by the Mexican Government, while another female member of her organization had been arrested, sexually assaulted and expelled from Mexico. Her organization continued to experience difficulties bringing representatives to the Commission and Sub-Commission from Indian-occupied Kashmir, and always feared for the lives of those persons when they returned home. Its delegate to the forty-seventh session of the Sub-Commission had been contacted with a view to his attendance at the forty-eighth session, but a few days later his body had been found.

26. Her organization had great difficulty finding attorneys in Hawaii who were willing to defend cases in which supporters of the royal family had been assaulted and abused by the police, many attorneys being intimidated by what they feared would be court-imposed sanctions or even disbarment. Her organization's representatives in the Moluccas were under extreme pressure. The Kurdish question in Turkey had taken a huge toll of human rights

defenders, people interviewed by representatives of her organization during its mission to Turkey had subsequently been arrested, tortured or killed. Turkey was currently holding the leader of the Kurdish Workers' Party (PKK), Mr. Ocalan, who was legally entitled to prisoner-of-war status; the lawyers representing him would need the support of human rights groups to protect their own lives as well as his.

27. Her organization urged the Commission to take decisive action to protect human rights defenders. In the absence of a special rapporteur, other rapporteurs and working groups should initiate reviews of the situation of human rights defenders within their own mandates.

28. Ms. TICKELL (Friends World Committee for Consultation (Quakers)), speaking also on behalf of the International Commission of Jurists, said that it was universally agreed that a Government could, under no circumstances, legitimately ignore its obligations to promote and protect the human rights of those within its jurisdiction, although there were circumstances in which it might restrict or limit some of those rights. In the context of the declaration of a state of war or other emergency threatening the life of the nation, a State might derogate from some of the provisions of certain human rights treaties, although only to the extent strictly required by the exigencies of the situation and not if such a derogation would be incompatible with its other international obligations. The international response to such declarations and derogations had hitherto been inadequate and a careful scrutiny by independent outside bodies was desirable.

29. The establishment in the near future of the International Criminal Court, with the broadest geographical scope, would be a breakthrough in making the protection of human rights a reality, and her organization therefore urged all States to become parties to its Statute at the earliest opportunity.

30. As clarity regarding the nature and scope of the applicable law increased, the question of implementation became crucial. Her organization was particularly concerned about the many abuses of human rights by informal armed forces and armed groups, and insofar as such groups were established or condoned by a Government, the responsibility for them and their actions remained governmental. Nevertheless, too little attention was currently being paid to them and their activities and to ensuring that Governments were held accountable for their actions.

31. Mr. POPOVIC (Earthjustice Legal Defense Fund), referring to the report of the Secretary-General on promotion and protection of human rights: science and environment (E/CN.4/1999/89), said that the Commission on Human Rights had a responsibility to address the human rights aspects of Agenda 21. There had recently been a number of relevant developments in international and domestic law. In June 1998, the Economic Commission for Europe had opened for signature the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (ECE/CEP/43), which explicitly recognized that adequate protection of the environment was essential to human well-being and the enjoyment of basic human rights. The Inter-American Commission on Human Rights had recognized, in a report on the human rights situation in Ecuador, that environmental degradation of the lands of indigenous peoples for the purpose of oil exploration implicated a range of

human rights including the right to health, the right to information and the right to public participation. The European Court of Human Rights had issued two judgements recognizing the human rights implications of environmental pollution.

32. The number of national constitutions that recognized some form of right to a healthy environment and/or a Government's duty to prevent environmental harm had risen to 99. In the United States of America, human rights lawsuits had been brought against companies in connection with oil exploration in Ecuador, the construction of a gas pipeline in Myanmar and mining in Indonesia. Oil-development activities continued to fuel human rights violations in north-east Colombia and Nigeria. Native Americans and other minorities in the United States of America continued to bear a disproportionate share of the burden of environmental hazards. Construction of the Three Gorges Dam was going ahead in China with massive disruption to the surrounding natural and cultural heritage.

33. His organization supported the recommendation that the Commission should convert the mandate of the Special Rapporteur on illicit movement and dumping of toxic waste into that of a special rapporteur on human rights and the environment.

34. Ms. TANAKA (International Movement against All Forms of Discrimination and Racism) said that, in most countries of the Asia-Pacific region, there was a noticeable lack of human rights education. A conference on the subject, held in November 1998 under the auspices of OHCHR, had been attended by more than 150 participants. It had considered 13 country reports and discussed human rights education strategies in the context of globalization, human rights empowerment for the oppressed, and human rights training for NGOs, business leaders and those engaged in the administration of justice, and had culminated in the adoption of a Declaration containing a number of recommendations.

35. The Declaration stated that it was essential to learn from the reality of human rights violations; that human rights education should be relevant to the lives and realities of communities; that Governments should provide human rights training for military forces, law-enforcement officers, prison officials, immigration and border officials, members of legislative bodies and local authorities; and that professional groups, particularly journalists and members of the medical and legal professions, should take responsibility for enhancing human rights awareness among their members and ensuring that their conduct conformed to human rights standards.

36. Ms. SANJUR (Commission for the Defence of Human Rights in Central America) said that her organization was concerned that there were still many cases of intimidation of human rights defenders in Central America. On 16 April 1999, three armed individuals had broken into the house of the Executive Director of the Office for Human Rights of the Archbishopric of Guatemala on the occasion of the first anniversary of the murder of Bishop Juan Gerardi, Coordinator of the Office.

37. The international community must keep a vigilant eye on the physical safety of human rights defenders around the world. Ombudsmen should be

aggressive in asserting human rights in Central America but their budgets were approved by legislatures and, if they had problems with the executives, it was likely that the legislatures would refuse to approve the budgets. It was essential, therefore, that they should be more independent of the executive and the judiciary if they were to acquire greater credibility. It was also important that the Central American Governments should have a broader view of their role and provide them with greater economic support.

38. Ms. SHARFELDDIN (International Organization for the Elimination of All Forms of Racial Discrimination) said that the atrocities committed against the Palestinian people and the horrific treatment of the people of the Balkans made one wonder about the effectiveness of international law. The right of veto given to the super Powers by the Charter of the United Nations was intended to prevent acts of aggression by the strong against the weak, but such acts were being committed every day, threatening international peace in violation of international law and Security Council resolutions.

39. One of the causes of the problems facing the world was the mass media, which were often than not used subjective information from questionable sources and imposed propaganda by biased and selective reporting techniques. They relied on misrepresentation not in the normal sense of falsification but in a clever fabrication of misinformation.

40. Her organization called on the Secretary-General to condemn any use of military force outside the context of Security Council resolutions; on the General Assembly to find ways of enhancing the effectiveness of the Security Council and mitigating its paralysis by the veto; on the Secretary-General and the General Assembly to promote application of the clauses of the Charter requiring the forwarding of international conflicts to the International Court of Justice and to establish a United Nations global satellite channel network in all the official languages to provide coverage on issues of concern to the international community.

41. Ms. KLEIN (Brahma Kumaris World Spiritual University) said that it was only when people had a spiritual perspective that they could truly act towards one another in a spirit of brotherhood as they were urged to do by the Universal Declaration of Human Rights. The human values of respect, freedom and justice had to be brought back into personal, professional and societal relationships in order to reaffirm the worth of the individual. When that was done, human rights would be upheld and followed naturally as a way of life by everyone everywhere.

42. Ms. FIORE (Human Rights Advocates Inc.) said that no derogation from the articles prohibiting the imposition of the death penalty on juveniles was allowed under the International Covenant on Civil and Political Rights or the Convention on the Rights of the Child. The former had been ratified by the Islamic Republic of Iran, Nigeria, the United States and Yemen and the latter by the Islamic Republic of Iran, Nigeria, Pakistan, Saudi Arabia and Yemen, all of which were thus violating their treaty obligations. The Commission, NGOs and religious bodies had for years been trying to halt the abhorrent practice of executing juveniles and, instead of issuing last-minute appeals, the international community should seek to prevent countries from sentencing juveniles to death.

43. The Commission should call upon the authorities of the countries she had mentioned to comply with their international treaty obligations and request them to report on action to educate their public on the prohibition of the juvenile death penalty under those treaties; request all States to cooperate fully with the Special Rapporteur on extrajudicial, summary or arbitrary executions; urge Pakistan and Saudi Arabia to ratify the International Covenant on Civil and Political Rights; and urge the United States of America to revoke its reservation to article 6 of the International Covenant on Civil and Political Rights and to ratify the Second Optional Protocol thereto and the Convention on the Rights of the Child without any reservations.

44 Ms. RICUPERO (Center for Justice and International Law), speaking also on behalf of Amnesty International, Human Rights Watch Interights,, the International Commission of Jurists and the Lawyers Committee for Human Rights, said she noted with concern that a number of States had recently withdrawn from or entered reservations to key human rights treaties. In 1998, Jamaica had withdrawn from the Optional Protocol to the International Covenant on Civil and Political Rights and Trinidad and Tobago had announced its withdrawal from the American Convention on Human Rights. In both cases, the stated purpose was to facilitate the use of the death penalty. Trinidad and Tobago and Guyana had withdrawn from and re-acceded to the Optional Protocol, with reservations barring the Human Rights Committee from considering communications from persons sentenced to death. By extension, that precluded consideration of any complaint even indirectly connected with a capital case, such as denial of access to legal counsel or inhumane treatment in prison.

45. Other States might be encouraged by such moves to enter reservations seeking to bar communications regarding allegations concerning torture or the right to a fair trial, reservations which would render the individual petition system meaningless. There were also strong reasons to believe that such reservations were legally invalid, since the Vienna Convention on the Law of Treaties provided that reservations must be compatible with the object and purpose of a treaty and the Human Rights Committee's General Comment No. 24 stated that a reservation that significantly impaired the Committee's competence to hear communications was incompatible with the object and purpose of the Optional Protocol.

46. The Commission should urge Trinidad and Tobago and Guyana to withdraw their reservations and Jamaica to re-accede to the Optional Protocol; reiterate its appeal to all States to ratify human rights treaties without reservations; urge other States to refrain from making similar reservations and call on the States parties to the Covenant on Civil and Political Rights to object formally to any incompatible reservations.

47. Her statement was also supported by a number of Caribbean human rights associations.

48. Ms. RODRIGUEZ (International Service for Human Rights), speaking also on behalf of the International Commission of Jurists, the Lawyers Committee for Human Rights, the Association for the Prevention of Torture, the Baha'i International Community, the International Federation of Action of Christians for the Abolition of Torture and Amnesty International, said that the recently adopted Declaration on the Right and Responsibility of Individuals, Groups and

Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms provided a yardstick for a new United Nations mechanism to deal with the question of human rights defenders.

49. The existing thematic and country mechanisms did not cover all the issues relating to the free and effective functioning of human rights defenders such as their right to freedom of association and movement. They would be unable to provide a comprehensive review of implementation of the Declaration or to undertake adequate investigations of individual cases. A special rapporteur on human rights defenders would be able to elaborate a conceptual approach to the review of implementation, develop a methodology for investigations of individual cases, oversee technical assistance provided by OHCHR and make recommendations to the Commission. She therefore requested all the members of the Commission to support the appointment of such a special rapporteur.

50. Mr. KHAN (World Federation of Trade Unions) said his organization was concerned at the fact that a number of countries had not yet ratified the six core United Nations human rights treaties. About 30 per cent of Member States had failed to ratify the two International Covenants on Human Rights. It was paradoxical that some States that had been making allegations regarding human rights violations by other Governments and calling for inquiries and other action by the Commission had nevertheless failed to accede to basic human rights instruments. Pakistan, for example, had not yet signed either of the two Covenants. Such Governments showed a lack of political will to honour their human rights obligations and sought to use human rights to internationalize bilateral issues.

51. He urged the Commission to impress upon all States that had not yet become parties to the Covenants the desirability of doing so before the end of the century, so that the world could begin the twenty-first century with renewed hope that human dignity would be respected.

52. Mr. FRANCO (Movement against Racism and for Friendship among Peoples) said that, speaking as a Swiss citizen who had performed his military service but also on behalf of 1,400 human rights defenders, he appealed to the authorities of the Canton of Geneva to dismantle the excessively tight security cordon placed around the premises of the United Nations Office there.

53. Speaking also on behalf of the Centre Europe-Tiers Monde, he said that the prime victims of the reign of terror in Myanmar were human rights defenders, particularly representatives of and sympathizers with the National League for Democracy. Insufficient attention had also been paid to the plight of the Kurdish people and their human rights defenders in the Syrian Arab Republic and Turkey. Human rights defenders in Turkey were repressed under the Constitution inherited from the 1982 military coup d'état. Dozens of offices of the Human Rights Association (IHD) had been closed down and many human rights defenders had been tried and imprisoned by the State Security Court.

54. Ms. GOSTEN (Movement against Racism and for Friendship among Peoples), speaking also on behalf of Centre Europe - Tiers Monde, said that in 1988, at least 25,000 Kurdish civilians in the town of Halabja in northern Iraq had

been killed by chemical and biological weapons and more than 250,000 had been directly exposed to their effects. She had visited the town ten years later and had been horrified at the continuing plight of isolated and inaccessible victims of a combination of international and internal embargoes and the repressive policies of the Iraqi regime. The Commission had failed to condemn the Iraqi action against Halabja in 1998 and the Government of Iraq was still pursuing a policy of mass displacement of Kurds from oil-rich areas.

55. Mr. FINUCANE (International League for Human Rights) said that attacks on human rights defenders throughout the world were becoming increasingly frequent. In some cases, they were carried out in an institutionalized manner with full impunity and official State sanction. His father, the lawyer Patrick Finucane, had been murdered in Northern Ireland in 1989 by a loyalist terrorist organization and his friend and colleague, the lawyer Rosemary Nelson, had recently been murdered under similar circumstances. Both had vigorously defended the human rights of their clients and had been impeded and subjected to intimidation by the Royal Ulster Constabulary (RUC), whose officers enjoyed impunity vis-à-vis their superiors and the State. In the case of Mr. Finucane, evidence suggested that a State agent had known that he was to be murdered but had taken no steps to protect him.

56. The Special Rapporteur on the independence of judges and lawyers had investigated the issue in 1997 and had recommended in his report to the current session of the Commission (E/CN.4/1999/60) that a full inquiry should be undertaken into allegations of official collusion in the murder of Mr. Finucane. The Commission should urge the United Kingdom to bring to light all the facts surrounding the murder of the two human rights defenders and to ratify all international instruments providing protection for the role and work of such individuals.

57. Mr. DERERA (World Federation of United Nations Associations) said that he was greatly impressed by the information and education programmes carried out jointly by OHCHR and the United Nations Information Service, with meagre funds and a limited staff. The programmes, which targeted all age groups and treated the human rights instruments as an indivisible whole, had made a significant contribution to the promotion of human rights awareness. Governments and NGOs should turn their work to account. Concrete programmes for the teaching profession should be established and implemented with the assistance of teachers' organizations; organizations campaigning for specific human rights should place them in the context of the other rights protected by international instruments; and religious bodies and the media could also play a key role in generating awareness.

58. He stressed the need to adopt a holistic approach to the impact of science and technology on human rights, since a piecemeal approach clouded the issue and thwarted effective action. Medical science had made vast strides but also enabled its practitioners to treat human beings as objects. Methods of torture had been "refined" to induce pain without leaving scars. Ancetine had been used to condition the aggressive impulses of prisoners and amphetamines had been administered to thousands of schoolchildren diagnosed as mentally ill. The Commission must take steps to prevent science and technology from making the Universal Declaration of Human Rights a dead letter.

59. Ms. LOIZIDOU (International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities) said that, in 1989, she had filed an application against Turkey with the European Commission on Human Rights concerning deprivation of the peaceful use of her property at Kyrenia in northern Cyprus. In three judgements delivered in 1995, 1996 and 1998, the Court had found that she was the legal owner of the property, that Turkey was responsible for depriving her of its use and that she was entitled to compensation. Turkey had shown no sign either of complying with the Court's monetary award or of allowing her to reoccupy her property. She urged the Commission to take action to ensure that the Court's decisions were implemented.

60. Mr. POIRET (Association of World Citizens) said he welcomed the proclamation by the United Nations of an International Year for the Culture of Peace in 2000 and an International Decade for a Culture of Peace and Non-Violence for the Children of the World from 2001 to 2010. The establishment of such a culture called, however, for a more acceptable distribution of wealth between developed and developing countries and among individuals. Violent video games and television series had a direct adverse influence on child behaviour and the media had a key role to play in promoting a culture of peace for the children of the world. The right to a healthy environment was of vital importance to the present and future generations and multinational companies should change their attitude, which was leading to impoverishment of the environment.

61. Mr. McNAUGHTON (Asian Buddhist Conference for Peace) said that, in 1998, a human rights promoter in Chiapas had, after testifying to human rights violations committed by the Mexican army and paramilitary groups before an international commission, been assassinated by the paramilitary group "Paz y Justicia" and his body tossed into a river. The group in question had received a "development grant" worth US$ 500,000 from the Mexican Government in 1997. That was but one of innumerable cases in which human rights defenders had been attacked or threatened and their offices vandalized. The Government and agencies of the United States of America were accomplices in the dirty war being waged by the Government of Mexico. He urged that a special rapporteur be appointed to investigate human rights violations in Mexico.

62. Turning to the issue of Jammu and Kashmir, he said that, in 1996, a human rights activist from Srinagar had been arrested and tortured for three days following his return from Geneva, where he had testified before the Commission. The security forces had subsequently raided his home, abused his family and accused him of conspiring to disintegrate India. He thus had well-founded fears of similar treatment on his return to India after attending the Commission's current session.

63. Ms. FERRARI (JMJ Children's Fund of Canada, Inc.) said that some 8 million of the 13 million children who died each year could be saved by providing, at very low cost, oral rehydration salts and antibiotics. Farmers in developing countries could double their food production if they received a fair market price. Tuberculosis could be controlled for a fraction of the sums annually spent on the research into and treatment of HIV/AIDS, which could be eradicated within 10 years if everyone abstained from sexual activity

outside marriage. Many hospitals in developing countries lacked surgical equipment or medicines but were well supplied with condoms. Abortions could lead to sterility and an increased likelihood of breast cancer. The direction of humanitarian aid should be changed.

64. Mr. WU (International Union of Socialist Youth) said that China executed more people than any other country, although the precise number was considered a State secret. Amnesty International estimated that the total had been 4,167 in 1996, or 70 per cent of all executions in the world. Moreover, to terrorize the general population, executions were held in public. Prisoners were shackled and humiliated by being paraded through the streets. The Chinese authorities also harvested human organs from executed prisoners and sold them for profit. An end to the death penalty would allow China to join the forward march of civilization.

65. Ms. WESSEL (International Helsinki Federation for Human Rights) said that, in many States, human rights defenders encountered intimidation, physical violence, abusive surveillance, arbitrary arrest, unfair trial and restrictions on freedom of movement. They were routinely accused of damaging the image of their State when they reported human rights violations. In most countries of the former Soviet Union, human rights NGOs had difficulty in meeting deliberately rigorous registration procedures and were subjected to police raids, abusive financial controls, illegal confiscation of documents and computers and interference with telephone lines.

66. The Vice-President of Serbia had said, as long ago as September 1998, that if it proved impossible to shoot down every NATO plane, the Government would eliminate a more attainable target, domestic traitors such as the National Helsinki Committee. Since the declaration of a state of emergency in that country, human rights work had become impossible. Most representatives of NGOs and the media were interrogated daily and arbitrarily held in prison. An atmosphere of terror reigned.

67. In Belarus, the Ministry of Justice had issued three warnings to the National Helsinki Committee threatening it with closure. The Committee had been ordered to protect the human rights of its members only. The Kyrgyz Committee for Human Rights had had its registration revoked in June on procedural grounds, following accusations of financial mismanagement of funds from foreign donors. The real reason seemed to be to prevent the Committee from observing the October referendum.

68. Ms. STOTHARD (Aliran Kesedaran Negara - National Consciousness Movement), having urged the members of the Association of South East Asian Nations (ASEAN) which had not yet done so to ratify the core human rights treaties, said that the Government of Malaysia had not matched its loud commitment to human rights overseas with its domestic behaviour. Since no action had been taken by the police to deal with the surge of human rights violations over the past six months, the Government presumably supported them.

69. Two human rights defenders had been severely beaten and arrested by the police the previous week, in both cases not for the first time. Both men had lodged official complaints against earlier violations they had suffered and

that had probably made them targets for even greater abuse. A human rights defender who had made a statement to the Commission 10 days previously had since been assaulted by a district police chief.

70. A migrant rights advocate had been prosecuted and a member of parliament had been imprisoned for defending an under-aged girl who had alleged sexual abuse by a political leader. An academic had lost his post when he spoke out for human rights and, in the case mentioned by the observer for Malaysia, the judge who had found the ruling party guilty of offences had been dismissed. She urged the Commission to intervene on behalf of Malaysian human rights defenders. A first step would be for the police to be given proper human rights training.

71. Ms. WIDEBECK (Human Rights Internet) endorsed the call for the Commission to establish a special rapporteur on human rights defenders. The conditions under which human rights defenders worked had not substantially improved since the 1993 World Conference on Human Rights. Human rights organizations faced increasingly sophisticated measures by Governments to control their activities, as well as attacks by non-State actors who seemed to be beyond government control.

72. The Defenders' Summit, held in Paris in December 1998 and attended by over 100 human rights defenders from all parts of the world, had heard of many and varied attacks on human rights defenders. In Pakistan, a fatwa had been proclaimed against two women lawyers for exposing "honour killing" for the murder it actually was. In Colombia and Guatemala, human rights activists had received death threats from paramilitary forces; in Algeria, they just disappeared; in China, they were jailed; and in Egypt and Sri Lanka, the independence of human rights NGOs was undermined by financial controls.

73. Defenders' rights should be written into the mandates of all special rapporteurs and the relevant treaty bodies but that would not, of itself, be enough to give the issue the attention it merited. Many States were understandably reluctant to appoint yet another special rapporteur but, if human rights defenders were not protected, the rights of all were in jeopardy.

74. Mr. SAFI (World Muslim Congress) said that, in armed conflicts, human rights defenders were particularly vulnerable. They were detained, tortured or murdered; members of their families were harassed or harmed. His own situation was a case in point. He had been raising the issue of human rights violations in Indian-occupied Jammu and Kashmir before the Commission for nearly a decade. As a result, his brother-in-law had been burned alive and his cousin had been shot at. His wife and children had had to leave their home. The Commission should respond to the suffering of human rights defenders throughout the world and his organization strongly supported the proposal that a special rapporteur should be appointed on that theme. Governments must be held accountable for their treatment of human rights defenders.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)

75. The CHAIRPERSON said that, in accordance with her earlier statement to the Commission (E/CN.4/1999/SR.39, paras. 18-21), she wished to make a ruling in relation to the right to raise points of order. The first aspect of her ruling related to Palestine. In accordance with the advice of the Office of

Legal Affairs in New York, which relied on General Assembly resolution 52/250 and the accompanying note by the Secretary-General contained in document A/52/1002, her ruling was that the Observer for Palestine had the right in the Commission to raise points of order relating to Palestinian and Middle East issues, provided that the right to raise such a point of order did not include the right to challenge a decision by the Presiding Officer.

76. The second aspect of her ruling related to the right of observer Governments generally to raise points of order, the matter at issue being the interpretation to be given to rule 42.1 of the rules of procedure of the functional commissions of the Economic and Social Council. Like the issue of Palestinian rights, the matter had been carefully considered in the Bureau over the past two weeks and there had been extensive consultation. According to her understanding, there was a widespread feeling that, in all the circumstances, the fair and reasonable approach was that observer Governments should have the right to raise points of order before the Commission. She therefore ruled that, for the purposes of article 42.1, the term "a representative" was to be interpreted in the Commission on Human Rights as applying both to representatives of members of the Commission and representatives of Member States of the United Nations not members of the Commission on Human Rights but participating in its work in an observer capacity.

77. Ms. RUBIN (United States of America) said that her delegation questioned whether it was wise for the Commission to cede authority over its own procedures to the General Assembly. The Commission's established practice precluded observers, even if they were Member States of the United Nations, from raising procedural points of order or introducing resolutions of their own accord. That practice was not negated by the General Assembly resolution. The Office of Legal Affairs should be asked to reconcile its new opinion with its prior opinions, indicating that non-member States were precluded from either raising points of order, within the United Nations or the functional commissions of the Economic and Social Council, or introducing resolutions.

78. Any change to the Commission's rules or practices required the action of the Council itself. Only the Council could change its own rules of procedure or practice, not the General Assembly.

79. To accord both the Palestinians and non-member States the right to raise points of order or introduce resolutions would confuse and impair the work of the Commission. The resulting impact needed to be considered systematically and comprehensively; it should not be decided in the context of the Palestinian issue alone. Her delegation thus recommended that the issue of according enhanced status to any observer be studied, without prejudice, and considered at the next session of the Commission, since it was an issue that would significantly change the Commission's practice and its authority to run its own house.

80. The CHAIRPERSON said she took note of the statement. She was glad that it had taken the form of a statement and not a challenge to her ruling since, in the latter event, she would have been obliged to put the matter to a vote.

The meeting rose at 6 p.m.